IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION DOCKET NO. 3:07CV207-W

CHARLES EDSEL KIKER,)	
Individually and Personal)	
Representative of Rodney Neil Kiker)	
(deceased),)	
)	
Plaintiff,)	
)	ORDER
VS.)	
)	
MONY LIFE INSURANCE)	
COMPANY OF AMERICA,)	
)	
Defendant.)	
)	

THIS MATTER is before the Court, *sua sponte*, as to the status of this case. Pursuant to the Initial Scheduling Order served on the parties on May 22, 2007, the parties were required to confer as provided by Rule 26(f) within fourteen (14) calendar days following joinder of the issues and to file a Certification of such conference within five (5) calendar days after the IAC. Here, because Defendant filed a counterclaim, joinder of the issues in this case would have occurred when Plaintiff filed its response to Defendant's counterclaim. Plaintiff, however, has not filed such response and the time for responding under the rules has passed. Nevertheless, Defendant has not filed an appropriate motion addressing Plaintiff's failure to respond.

Furthermore, it does not appear to the Court that the parties have complied with the requirements of this Court's Initial Scheduling Order. Although a motion for remand is pending, this Court has explicitly stated in its Initial Scheduling Order that "While motions to remand... typically will be decided as early in the case as practicable, the Court includes them in the group of preliminary motions that do not stay the pleading scheduling and commencement of discovery in

recognition of the fact that the litigation is likely to go forward in some forum even if not" this Court.

Accordingly, the Court ORDERS the parties to immediately familiarize themselves with and comply with the Court's Initial Scheduling Order, which has been docketed in this case and also may be found on the Court's Internet Site and at 3:07-MC-00047 (Doc. No. 2). The parties are ordered to file a Certification of Initial Attorneys' Conference within seven (7) calendar days of this Order. Failure to do so may result in dismissal of the Complaint and Counterclaims.

IT IS SO ORDERED.

Signed: July 16, 2007

Frank D. Whitney

United States District Judge